

Par. (3). Pub. L. 103-429 substituted “section 46501(2) of title 49” for “section 101(38) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(38))”.

#### EFFECTIVE DATE

Section 506(c) of Pub. L. 103-236 provided that: “The amendments made by this section [enacting this chapter] shall take effect on the later of—

“(1) the date of enactment of this Act [Apr. 30, 1994]; or

“(2) the date on which the United States has become a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.” [Convention entered into Force with respect to United States Nov. 20, 1994, Treaty Doc. 100-20.]

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 114 of this title.

### § 2340A. Torture

(a) OFFENSE.—Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a) if—

(1) the alleged offender is a national of the United States; or

(2) the alleged offender is present in the United States, irrespective of the nationality of the victim or alleged offender.

(Added Pub. L. 103-236, title V, §506(a), Apr. 30, 1994, 108 Stat. 463; amended Pub. L. 103-322, title VI, §60020, Sept. 13, 1994, 108 Stat. 1979.)

#### AMENDMENTS

1994—Subsec. (a). Pub. L. 103-322 inserted “punished by death or” before “imprisoned for any term of years or for life”.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2332b, 2339A, 3286 of this title.

### § 2340B. Exclusive remedies

Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.

(Added Pub. L. 103-236, title V, §506(a), Apr. 30, 1994, 108 Stat. 464.)

## CHAPTER 114—TRAFFICKING IN CONTRABAND CIGARETTES

Sec.	
2341.	Definitions.
2342.	Unlawful acts.
2343.	Recordkeeping and inspection.
2344.	Penalties.
2345.	Effect on State law.
2346.	Enforcement and regulations.

#### CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 49 section 80302.

### § 2341. Definitions

As used in this chapter—

(1) the term “cigarette” means—

(A) any roll of tobacco wrapped in paper or in any substance not containing tobacco; and

(B) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A);

(2) the term “contraband cigarettes” means a quantity in excess of 60,000 cigarettes, which bear no evidence of the payment of applicable State cigarette taxes in the State where such cigarettes are found, if such State requires a stamp, impression, or other indication to be placed on packages or other containers of cigarettes to evidence payment of cigarette taxes, and which are in the possession of any person other than—

(A) a person holding a permit issued pursuant to chapter 52 of the Internal Revenue Code of 1986 as a manufacturer of tobacco products or as an export warehouse proprietor, or a person operating a customs bonded warehouse pursuant to section 311 or 555 of the Tariff Act of 1930 (19 U.S.C. 1311 or 1555) or an agent of such person;

(B) a common or contract carrier transporting the cigarettes involved under a proper bill of lading or freight bill which states the quantity, source, and destination of such cigarettes;

(C) a person—

(i) who is licensed or otherwise authorized by the State where the cigarettes are found to account for and pay cigarette taxes imposed by such State; and

(ii) who has complied with the accounting and payment requirements relating to such license or authorization with respect to the cigarettes involved; or

(D) an officer, employee, or other agent of the United States or a State, or any department, agency, or instrumentality of the United States or a State (including any political subdivision of a State) having possession of such cigarettes in connection with the performance of official duties;

(3) the term “common or contract carrier” means a carrier holding a certificate of convenience and necessity, a permit for contract carrier by motor vehicle, or other valid operating authority under subtitle IV of title 49, or under equivalent operating authority from a regulatory agency of the United States or of any State;

(4) the term “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands; and

(5) the term “Secretary” means the Secretary of the Treasury.

(Added Pub. L. 95-575, §1, Nov. 2, 1978, 92 Stat. 2463; amended Pub. L. 97-449, §5(c), Jan. 12, 1983, 96 Stat. 2442; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095.)

## REFERENCES IN TEXT

Chapter 52 of the Internal Revenue Code of 1986, referred to in par. (2)(A), is classified generally to chapter 52 (§5701 et seq.) of Title 26, Internal Revenue Code.

## AMENDMENTS

1986—Par. (2)(A). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

1983—Par. (3). Pub. L. 97-449 substituted “subtitle IV of title 49” for “the Interstate Commerce Act”.

## EFFECTIVE DATE

Section 4 of Pub. L. 95-575 provided:

“(a) Except as provided in subsection (b), this Act [enacting this chapter, amending section 1961 of this title and sections 781 and 787 of former Title 49, Transportation, and enacting provisions set out as a note under this section] shall take effect on the date of its enactment [Nov. 2, 1978].

“(b) Sections 2342(b) and 2343 of title 18, United States Code as enacted by the first section of this Act, shall take effect on the first day of the first month beginning more than 120 days after the date of the enactment of this Act [Nov. 2, 1978].”

## AUTHORIZATION OF APPROPRIATIONS

Section 5 of Pub. L. 95-575 provided that: “There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of chapter 114 of title 18, United States Code, added by the first section of this Act.”

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1961 of this title.

**§ 2342. Unlawful acts**

(a) It shall be unlawful for any person knowingly to ship, transport, receive, possess, sell, distribute, or purchase contraband cigarettes.

(b) It shall be unlawful for any person knowingly to make any false statement or representation with respect to the information required by this chapter to be kept in the records of any person who ships, sells, or distributes any quantity of cigarettes in excess of 60,000 in a single transaction.

(Added Pub. L. 95-575, §1, Nov. 2, 1978, 92 Stat. 2464.)

## EFFECTIVE DATE

Subsec. (a) of this section effective Nov. 2, 1978, and subsec. (b) of this section effective on first day of first month beginning more than 120 days after Nov. 2, 1978, see section 4 of Pub. L. 95-575, set out as a note under section 2341 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1961, 2344 of this title.

**§ 2343. Recordkeeping and inspection**

(a) Any person who ships, sells, or distributes any quantity of cigarettes in excess of 60,000 in a single transaction shall maintain such information about the shipment, receipt, sale, and distribution of cigarettes as the Secretary may prescribe by rule or regulation. The Secretary may require such person to keep only—

(1) the name, address, destination (including street address), vehicle license number, driver's license number, signature of the person receiving such cigarettes, and the name of the purchaser;

(2) a declaration of the specific purpose of the receipt (personal use, resale, or delivery to another); and

(3) a declaration of the name and address of the recipient's principal in all cases when the recipient is acting as an agent.

Such information shall be contained on business records kept in the normal course of business. Nothing contained herein shall authorize the Secretary to require reporting under this section.

(b) Upon the consent of any person who ships, sells, or distributes any quantity of cigarettes in excess of 60,000 in a single transaction, or pursuant to a duly issued search warrant, the Secretary may enter the premises (including places of storage) of such person for the purpose of inspecting any records or information required to be maintained by such person under this chapter, and any cigarettes kept or stored by such person at such premises.

(Added Pub. L. 95-575, §1, Nov. 2, 1978, 92 Stat. 2464.)

## EFFECTIVE DATE

Section effective on first day of first month beginning more than 120 days after Nov. 2, 1978, see section 4 of Pub. L. 95-575, set out as a note under section 2341 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1961, 2344, 2346 of this title.

**§ 2344. Penalties**

(a) Whoever knowingly violates section 2342(a) of this title shall be fined under this title or imprisoned not more than five years, or both.

(b) Whoever knowingly violates any rule or regulation promulgated under section 2343(a) or 2346 of this title or violates section 2342(b) of this title shall be fined under this title or imprisoned not more than three years, or both.

(c) Any contraband cigarettes involved in any violation of the provisions of this chapter shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1986 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of such Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter.

(Added Pub. L. 95-575, §1, Nov. 2, 1978, 92 Stat. 2464; amended Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 103-322, title XXXIII, §330016(1)(K), (S), Sept. 13, 1994, 108 Stat. 2147, 2148.)

## REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (c), is classified generally to Title 26, Internal Revenue Code.

Section 5845(a) of the Internal Revenue Code of 1986, referred to in subsec. (c), is classified to section 5845(a) of Title 26.

## AMENDMENTS

1994—Subsec. (a). Pub. L. 103-322, §330016(1)(S), substituted “fined under this title” for “fined not more than \$100,000”.

Subsec. (b). Pub. L. 103-322, §330016(1)(K), substituted “fined under this title” for “fined not more than \$5,000”.

1986—Subsec. (c). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1961 of this title.

### § 2345. Effect on State law

(a) Nothing in this chapter shall be construed to affect the concurrent jurisdiction of a State to enact and enforce cigarette tax laws, to provide for the confiscation of cigarettes and other property seized for violation of such laws, and to provide for penalties for the violation of such laws.

(b) Nothing in this chapter shall be construed to inhibit or otherwise affect any coordinated law enforcement effort by a number of States, through interstate compact or otherwise, to provide for the administration of State cigarette tax laws, to provide for the confiscation of cigarettes and other property seized in violation of such laws, and to establish cooperative programs for the administration of such laws.

(Added Pub. L. 95-575, §1, Nov. 2, 1978, 92 Stat. 2465.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1961 of this title.

### § 2346. Enforcement and regulations

The Secretary, subject to the provisions of section 2343(a) of this title, shall enforce the provisions of this chapter and may prescribe such rules and regulations as he deems reasonably necessary to carry out the provisions of this chapter.

(Added Pub. L. 95-575, §1, Nov. 2, 1978, 92 Stat. 2465.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1961, 2344 of this title.

## CHAPTER 115—TREASON, SEDITION, AND SUBVERSIVE ACTIVITIES

Sec.	
2381.	Treason.
2382.	Misprision of treason.
2383.	Rebellion or insurrection.
2384.	Seditious conspiracy.
2385.	Advocating overthrow of Government.
2386.	Registration of certain organizations.
2387.	Activities affecting armed forces generally.
2388.	Activities affecting armed forces during war.
2389.	Recruiting for service against United States.
2390.	Enlistment to serve against United States.
[2391.	Repealed.]

#### AMENDMENTS

1994—Pub. L. 103-322, title XXXIII, §330004(13), Sept. 13, 1994, 108 Stat. 2142, struck out item 2391 “Temporary extension of section 2388”.

1953—Act June 30, 1953, ch. 175, §5, 67 Stat. 134, added item 2391.

#### CROSS REFERENCES

Wire or oral communications, authorization for interception, to provide evidence of offenses under this section, see section 2516 of this title.

#### CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 2516 of this title; title 5 section 8312; title 8 section 1227; title 22 sections

1641k, 1642h; title 42 section 402; title 50 App. section 2017g.

### § 2381. Treason

Whoever, owing allegiance to the United States, levies war against them or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason and shall suffer death, or shall be imprisoned not less than five years and fined under this title but not less than \$10,000; and shall be incapable of holding any office under the United States.

(June 25, 1948, ch. 645, 62 Stat. 807; Sept. 13, 1994, Pub. L. 103-322, title XXXIII, §330016(2)(J), 108 Stat. 2148.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§1, 2 (Mar. 4, 1909, ch. 321, §§1, 2, 35 Stat. 1088).

Section consolidates sections 1 and 2 of title 18, U.S.C., 1940 ed.

The language referring to collection of the fine was omitted as obsolete and repugnant to the more humane policy of modern law which does not impose criminal consequences on the innocent.

The words “every person so convicted of treason” were omitted as redundant.

Minor change was made in phraseology.

#### AMENDMENTS

1994—Pub. L. 103-322 inserted “under this title but” before “not less than \$10,000”.

#### CANAL ZONE

Applicability of section to Canal Zone, see section 14 of this title.

#### FEDERAL RULES OF CRIMINAL PROCEDURE

Indictment, see rule 7, Appendix to this title.

Release from custody, see rule 46.

Stay of execution and relief pending review, see rule 38.

Trial jurors, peremptory challenges, see rule 24.

#### CROSS REFERENCES

Counsel and witnesses in capital cases, see section 3005 of this title.

Definition and proof of treason, see Const. Art. III, §3, cl. 1.

Disqualification from holding any office of honor, trust, or profit, additional grounds for, see sections 592, 593, 1901, 2071, 2385, and 2387 of this title.

Extradition—

State, territory, or possession into extraterritorial jurisdiction of United States, see section 3183 of this title.

State or territory to State, district or territory, see section 3182 of this title.

Federal retirement benefits, forfeiture upon conviction of offenses under this section, see section 8312 of Title 5, Government Organization and Employees.

Forfeiture of veterans' benefits upon conviction under this section, see section 6105 of Title 38, Veterans' Benefits.

Grand jury indictment for capital crimes, see Const. Amend. 5.

Indictment and list of jurors and witnesses for prisoner in capital cases, see section 3432 of this title.

National Service Life Insurance, forfeiture of rights to insurance on account of treason, see section 1911 of Title 38, Veterans' Benefits.

Officers aiding importation of treasonous books and articles, see section 552 of this title.

Punishment of treason, power of Congress to declare, see Const. Art. III, §3, cl. 2.